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16 **UNITED STATES DISTRICT COURT**  
17 **DISTRICT OF NEVADA**

18 TAWNDRA L. HEATH, an individual,  
19 Plaintiff,  
20 vs.  
21 TRISTAR PRODUCTS, INC., a Pennsylvania  
22 corporation; Zhongshan Jinguang Household  
23 Appliance Manufacture Co., LTD., a foreign  
24 corporation; DOE Individuals 1–10; and ROE  
25 Corporations 11–20;  
26 Defendant.

Case Number  
2:17-cv-02869-GMN-BNW

**JOINT MOTION TO CONTINUE THE**  
**MAY 18, 2020 TRIAL DATE**

1 **TO THE HONORABLE COURT:**

2 Plaintiff, Tawndra L. Heath, by and through her counsel, Joseph J. Troiano of Cogburn Law  
3 Offices, and Defendants Tristar Products Inc. and Zhongshan Jinguang Household Appliance  
4 Manufacture Co., LTD by and through their counsel Dawn Davis of Snell & Wilmer and Michael  
5 Lopes, Esq. of Gordon Rees Scully Mansukhani LLP (collectively “parties”) hereby move jointly  
6 to continue to the May 18, 2020 trial of this action.

7 This motion is made pursuant to Local Rule IA 6-1, and is based on the grounds that good  
8 cause exists for the court to consent to continue the trial date based on the COVID-19 epidemic.  
9 This is the first request for a trial continuance.

10 Dated: April 2, 2020

GORDON REES SCULLY MANSUKHANI

11 LLP

12 By: /s/ Michael J. Lopes  
13 Michael J. Lopes  
14 *Attorneys for Defendants*

15 SNELL & WILMER L.L.P

16 By: /s/ Dawn L. Davis  
17 Dawn L. Davis  
18 *Attorneys for Defendants*

19 COGBURN LAW OFFICES

20 By: /s/ Joseph Troiano  
21 Joseph Troiano  
22 *Attorneys for Plaintiff*

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## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I. STATEMENT OF FACTS**

#### **a. Procedural History of this Case.**

Plaintiff sued Defendants in order to recover for burn injuries sustained arising out of a December 29, 2016 incident allegedly caused by a defective pressure cooker manufactured by Defendants. On or about October 12, 2017, Plaintiff Tawndra L. Heath commenced an action against Tristar Products, Inc. in the Eighth Judicial District Court for Clark County, Nevada. On or about November 15, 2017, the case was removed to the United States District Court – District of Nevada.

On December 18, 2019, the Court entered the parties' Joint Pretrial Order (ECF 110). The Joint Pretrial Order set forth the following dates for trial:

- Trial briefs, exhibit and witness lists, proposed voir dire, and proposed jury instructions due no later than 5/7/2020;
- Calendar Call set for 5/12/2020;
- Jury Trial set for 5/18/2020.

#### **b. Events Since the Trial Date was Scheduled.**

On March 11, 2020, the World Health Organization ("WHO") publicly characterized the Coronavirus (COVID-19) as a pandemic. *See World Health Organization, WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020, <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>* (accessed April 2, 2020).

On March 11, 2020, after "the number of cases of COVID-19 outside China . . . increased 13-fold, and the number of affected countries . . . tripled," the World Health Organization formally declared COVID-19 a global pandemic. *See id.*

On March 12, 2020, Governor Steve Sisolak issued a Declaration of Emergency for the State of Nevada. *See Response in NV, <https://nvhealthresponse.nv.gov/preparation-in-nv/>* (accessed April 2, 2020).

On March 13, 2020, President of the United States Donald Trump declared a nationwide emergency. See *COVID-19 Declaration of Emergency Directive 002*, [http://gov.nv.gov/News/Emergency\\_Orders/2020/2020-03-18\\_-\\_COVID-19\\_Declaration\\_of\\_Emergency\\_Directive\\_002/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-18_-_COVID-19_Declaration_of_Emergency_Directive_002/) (accessed April 2, 2020).

The White House issued Coronavirus guidance on March 16, 2020, called “The President’s Coronavirus Guidelines for America – 15 Days to Stop the Spread,” which instructed people that “**IF YOU ARE AN OLDER PERSON**, stay home and away from other people.” (emphasis in original). *The President’s Coronavirus Guidelines for America*, [https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20\\_coronavirus-guidance\\_8.5x11\\_315PM.pdf](https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20_coronavirus-guidance_8.5x11_315PM.pdf) (accessed April 2, 2020).

Even for those under 60 years of old, the White House guidance provides instruction to avoid spreading the coronavirus. “Even if you are young, or otherwise healthy, you are at risk and your activities can increase the risk for others. It is critical that you do your part to slow the spread of the coronavirus.” That guidance includes the following instructions: “Work or engage in schooling **FROM HOME** whenever possible.” “**AVOID DISCRETIONARY TRAVEL**, shopping trips, and social visits.” “**AVOID SOCIAL GATHERINGS** in groups of more than 10 people.” (emphasis in original). *Id.*

On March 20, 2020, Governor Sisolak directed non-essential businesses to close until at least April 16, 2020. *See COVID-19 Declaration of Emergency Directive 003*, <https://nvhealthresponse.nv.gov/wp-content/uploads/2020/03/2020-03-20.Declaration-of-Emergency-Directive-003-2.pdf> (accessed April 2, 2020).

The virus has also impacted lawyers, caused delayed trials and court closures. Law360, *Coronavirus: The Latest Court Closures And Restrictions*, <https://www.law360.com/articles/1252836/coronavirus-the-latest-court-closures-and-restrictions> (accessed April 2, 2020).

The United States Surgeon General said to “[a]ct like you have the virus,” adding that 15 days of avoiding people would not be enough to stop the spread. The Independent, <https://www.msn.com/en-gb/health/medical/act-like-you-have-the-virus-e2-80-99-us-surgeon->

1 [general-says-15-day-lockdown-won-e2-80-99t-be-enough-as-coronavirus-cases-rise/ar-BB11nlew](https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html) (accessed April 2, 2020).

3 The CDC advises people not to travel within United States for non-essential travel if there  
 4 is spread of COVID-19 where the travel is occurring, on its webpage specifically targeting people  
 5 traveling within the United States. *See* Center for Disease Control, *Coronavirus and Travel in the*  
 6 *United States* <https://www.cdc.gov/coronavirus/2019-ncov/travelers/travel-in-the-us.html>  
 7 (accessed April 2, 2020).

8 Upon information and belief, there is a spread of COVID-19 in every state, including  
 9 specifically those states and counties the Parties' and their witnesses intend on traveling from. New  
 10 York Times, March 19, 2020, <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html>, "Coronavirus Map: U.S. Cases Surpass 10,000," Updated March 19, 2020, 11:28 A.M.  
 11 E.T.

13 **II. LEGAL ANALYSIS**

14 **a. Legal Standard for Continuing a Trial Date**

15 Pursuant to local rules 6-1 and 26-4, a trial court may grant a motion to continue a trial date  
 16 if good cause exists. Courts interpret good cause as a "non-rigorous standard that has been construed  
 17 broadly across procedural and statutory contexts." *Alexander v. Wal-Mart Stores, Inc.*, No. 2:11-  
 18 CV-752 JCM, 2012 U.S. Dist. LEXIS 129615, \*2 (D. Nev. September 12, 2012), citing *Ahanchian*  
 19 *v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1259 (9th Cir. 2010).

20 **b. Good Cause Exists in This Case to Continue the Trial Date**

21 The parties agree that good cause exists to continue the trial date due to the COVID-19  
 22 epidemic.

23 The unprecedented COVID-19 virus has rapidly spread across the globe and has resulted  
 24 in positive tests and outbreaks in every state in the United States. At this time, the Parties anticipate  
 25 the COVID-19 pandemic will have impact on their ability to conduct the trial of this action. This  
 26 includes evolving and unanticipated restrictions of groups (recently limiting groups of 10 people),  
 27 travel restrictions, staffing issues, and issues with third party vendors. These delays are both  
 28 unanticipated and unavoidable due to the virus.

1 Co-Counsel for Defendants is located in New York City which is one of the epicenters  
2 of the COVID-19 outbreak in the United States. Plaintiff's engineering expert is based in Southern  
3 California. Defendant's engineering expert is based in Chicago, Illinois. Plaintiff's warnings  
4 expert is based in Spokane, Washington. Tristar has witnesses based in Florida. Tristar's assistant  
5 general counsel is based in Maryland. All of these areas continue to be impacted by the COVID-  
6 19 pandemic.

7 At least one of the witnesses in this case is over 60 years old and at higher risk of  
8 complications and death from COVID-19 because of their age.

9 Given the uncertainty caused by this epidemic for travel restrictions and gatherings of  
10 groups of people, the Parties agree that good cause exists to continue the May 18, 2020 trial date to  
11 another date which will be submitted by the parties through a supplemental Joint Pretrial Order  
12 with leave of the Court.

13 **III. CONCLUSION**

14 For the foregoing reasons, good cause exists and the parties jointly respectfully request that  
15 this Court allow the parties to submit a supplemental Joint Pretrial Order with three new proposed  
16 trial dates and continue the trial date.

17 Dated: April 2, 2020

GORDON REES SCULLY MANSUKHANI  
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1 Dated: April 2, 2020

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9 *Attorneys for Defendants*

8 Dated: April 2, 2020

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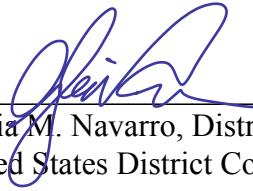
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16 *Attorneys for Plaintiff*

17 **ORDER**

18 **IT IS HEREBY ORDERED** that the above Joint Motion to Continue Trial, (ECF No. 115), is **GRANTED**. Accordingly, the jury trial currently set for May 18, 2020, and the calendar call currently set for May 12, 2020, are **VACATED**.

19 **IT IS FURTHER ORDERED** that the parties shall file a supplemental proposed joint 20 pretrial order by July 3, 2020.

21 **DATED** this 4 day of April, 2020.

22   
23 Gloria M. Navarro, District Judge  
24 United States District Court

**CERTIFICATE OF SERVICE**

I hereby certify that on April 2, 2020 I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to all counsel in this matter; all counsel being registered to receive Electronic Filing.

/s/ *Lyndsey Luxford*  
An employee of Snell & Wilmer L.L.P.

4825-0547-5769

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